



MINUTES

City Council Regular Meeting
October 5, 2020 - 7:00 PM

1. CALL TO ORDER

Mayor Rudy called the meeting to order at 7:05 p.m.

2. PLEDGE

3. ROLL CALL

Mayor:	Brian Rudy
Mayor Pro-Tem:	Mark Clark
Council:	Laura Speer
	Alicia Johnson
	Fred Neal
	Amanda Castle
	Tammy Mortenson

4. PROCLAMATION

A. National Planning Month

Mayor Rudy read the Proclamation aloud and proclaims October 2020 as Community Planning Month in the City of Evans in conjunction with the celebration of National Community Planning Month. He then presented the Proclamation to Lyle Achziger, Planning Commission Chair.

Mr. Achziger thanked the City of Evans for the Proclamation.

5. AUDIENCE PARTICIPATION

Jessica Neely, resident of Eaton, Colorado, who requested the City adopt the 9/11 Resolution and a constitution restoration ordinance. David Meek, resident of Greeley, Colorado, supports Ms. Neely's request and requested that the Bible curriculum be taught in schools.

6. APPROVAL OF AGENDA

Mayor Pro-Tem Clark requested that the ERA meeting be conducted prior to moving into Executive Session of the Regular Meeting.

Mayor Rudy accepted the amendment.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Castle to approve the agenda as amended. The motion passed with all voting in favor thereof.

7. CONSENT AGENDA

- A. Approval of the September 15, 2020 City Council Meeting Minutes
- B. Approval of the September 23, 2020 Special City Council Meeting Minutes
- C. Consideration of Ordinance Number 727-20 An Ordinance Repealing and Replacing Chapter 18, Section 18.07.120 Plat Modifications, Replats, Vacations and Lot Line Adjustments (2nd Reading)

Council Member Johnson requested an amendment to the Proclamation section of the September 15, 2020 minutes to clarify this was the first of such proclamation. Mayor Pro-Tern Clark made the motion, seconded by Council Member Castle to approve the consent agenda as amended. The motion passed with all voting in favor thereof.

8. NEW BUSINESS

- A. Resolution No. 31-2020 Appointment of the Evans City Clerk.

Mr. Becklenberg stated that Section 4.7(a) of the Evans City Charter provides for the City's Manager's appointment of the City Clerk, "with the approval by a majority vote of all members of the City Council." Accordingly, staff is asking the City Council to consider Resolution No. 31-2020 to ratify the appointment of Julie Kamka as the Evans City Clerk. Mr. Becklenberg provided a description of Ms. Kamka's municipal experience.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Neal to approve Resolution 31-2020 appointing Julie Kamka as City Clerk. The motion passed with all voting in favor thereof.

Julie Roeder, Administrative Services Director/Interim City Clerk, proceeded to administer the Oath of Office to Ms. Kamka. Ms. Kamka was congratulated by Julie Roeder, City Council and the audience.

- B. Consideration of Ordinance 735-20 and Loan Agreement with Colorado Water Resources & Power Development Authority (CWRPDA) for Storm Drainage Fund Improvements (Emergency Ordinance).

Mr. Becklenberg gave an overview of Ordinance Number 735-20 and turned the meeting over to City Engineer, Mark Oberschmidt.

Mark Oberschmidt described the storm drainage infrastructure projects as detailed in the agenda packet. Originally the projects were proposed as four separate projects: the 31st Street storm sewer project, the Heritage Inn/35th Street storm sewer project, the 39th Street storm sewer project and the St. Vrain/RR Pond. After reviewing the projects, staff has decided to approach the projects from a different angle. The 31st Street project will now be utilizing the existing channels rather than installing more pipe by cleaning the channels of built up sediment. The Heritage Inn/35th Street project will now go through the lagoons. The 39th Street, RR Ponds and St. Vrain projects are being re-

evaluated to come up with a better plan.

The 31st Street project will consist of cleaning the pipes to remove the built-up sediment, evaluate pipes, adding new inlets, provide additional water detention by the Kum & Go and channel improvements. The projected budget is \$1.2 million and will take 4 to 6 months to construct.

The Heritage Inn/35th Street project will consist of replacing storm sewer pipe that runs under Hwy 85 and under the railroad tracks. The proposed realignment of the pipe will also prepare for the decommissioning of the lagoons. The estimated budget for this project is \$7.4 million and will take 10-12 months to construct, which is projected from 2021-2022.

The City has been working to reduce the City's risk as well as reduce the City's cost. This is being achieved by potholing cleaning the existing pipes of built-up sediment and soil testing at tunnel locations. Soil testing has proven that the soil is not conducive for tunneling, so a variance was received to open cut Hwy 85 in lieu of tunneling underneath. This will provide a cost savings for the City. A public meeting was held in September 2019, staff has worked with Council Member Speer and other residents in the area that are affected by the flooding, to create the best possible solution to the flooding in this area of Hwy 85.

Mayor Pro-Temp Clark asked about hydro flushing the pipes to prevent the sediment built-up from happening. Mark Oberschmidt responded that the City has started that process on other storm sewers throughout the City where the pipe is flat. This will be an ongoing budget request going forward. Staff is also looking to cleaning the streets more frequently to remove debris before it gets into the storm sewers. Mayor Pro-Tem Clark believes that regular hydro flushing could have prevented a lot of flooding in these areas. Mr. Becklenberg responded that this is the second year the City has had a dedicated storm water crew. Prior to that, issues were addressed as needed. The rate increase approved a few years ago has allowed the City to have three dedicated staff members to address issues and provide on-going maintenance. Mayor Pro-Tem Clark asked if the recent paving and sidewalk work near 31st Street will be disturbed for this project. Mark Oberschmidt responded that two squares of sidewalk, approximately 30 feet of curb and gutter out by the street and the inlet will be reconstructed to allow better water flow. They are adding more inlets to increase the interception from the road.

Council Member Speer asked about the proposed road closure for the pipe replacement across Hwy 85. She is concerned that residential streets will be utilized. Mark Oberschmidt reviewed the north and southbound detour routes while sections of Hwy 85 are closed for the pipe replacement. This was vetted through CDOT as part of the process to get the variance in lieu of tunneling under the road. Council Member Speer is also concerned about the project disturbing private property. However, she is grateful that the project will be addressing flooding on the east side of the City and thanked staff. Mark Oberschmidt explained that staff has been working with the three property owners that will be affected by the project. Easements will be purchased, and

the property owners will be compensated.

Council Member Johnson confirmed that if after the pipes are cleaned and deemed to be structurally sound, they will not be replaced. Council Member Johnson asked if the pipes that are considered flat can be sloped to eliminate the blockages. Mark Oberschmidt stated that the slope cannot be changed, but once the sediment is cleaned out, the pipes should remain relatively clean with regular maintenance. The pipes that are not replaced will be lined to prevent any damage.

Jacque Troudt, Finance Director, reviewed the financing for the project. In 2018, the infrastructure task force recommended looking into issuing debt to pay for the improvements. The rate increase in January 2019 started to establish the drainage and maintenance program. The City has been working with the Colorado Water Resources and Power Development Authority and a few weeks ago the City was notified that their Board did approve the City for \$8.6 million dollars and needs Council approval by the end of the month. The bond sale date is set for October 29, 2020 and therefore the emergency ordinance is recommended by the City's bond counsel, Butler Snow, and is before the Council for approval. Mr. Becklenberg added that the alternative would be to wait a year.

Council Member Speer stated that she is glad the City is pursuing this. She has witnessed a lot of flooding in that area and wants to get this project going as soon as possible.

Mayor Pro-Temp Clark agrees and believes this project is long overdue. Council Member Neal has seen flooding in the area since 1973. Furthermore, Council Member Neal stated that this project is a priority to get done and get done correctly and would like to hear about the results of the hydro jetting.

Council Member Castle stated she takes debt issuance very seriously and thoroughly reviewed the debt document. Council Member Castle stated there is security in the interest rate right now. Emergency Ordinances are sometimes perceived to be as pushed through quickly. However, this has been a well-thought-out process; the end product is fantastic and is a great solution for the City and residents.

Council Member Castle made the motion, seconded by Council Member Neal, to approve Ordinance 735-20, upon first reading, and Loan Agreement with Colorado Water Resources and Power Development Authority (CWRPDA) for storm drainage capital improvements. The motion passed unanimously with 7 of 7 voting in favor thereof.

C. Consideration of Approval of the Development Agreement for the Peakview (Solstice) Development.

Mr. Becklenberg reviewed the background and gave an overview of the current

status of the Peakview project and turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson reviewed the project as depicted in the materials contained in the Council packet. Mr. Becklenberg asked staff to explain the developer reimbursements. Anne Best Johnson explained that the City is upsizing the water and sewer mains to further help development to the west and south and the City can seek reimbursement at the time of the future development.

Council Member Castle confirmed that the potable water system will be owned and maintained by the City and that the non-potable water system will be owned and maintained by the Metro District. Anne Best Johnson added that the City will own the water and running rights to the non-potable system and the Metro District will own the maintenance of the system. Mr. Becklenberg added that the Metro District is different than an HOA and will have the backing of a Mill Levy and long-term obligations, including maintenance of much of the park property throughout the development.

Council Member Speer confirmed that the City will not be reimbursing the developer until after development begins and that if the development is sold, the Development Agreement will run with the land.

Council Member Neal asked for clarification on reimbursement for the street improvements. Mark Oberschmidt explained that 65th Avenue will be widened to four lanes. The profile of the road is being substantially altered. To build half the now and come back in five years and finish the road would cost more and create more traffic problems for the residents. When the Wiedeman property develops in the future, the City can recoup the cost for the road improvements. Council Member Neal stated he is also concerned that the EQR's were unable to be determined for the commercial portion and does not want the Developer to request to change the zoning to residential. Anne Best Johnson responded that the EQR's that has been allotted for the residential are in excess. The EQR's for the commercial have been left blank, because they cannot be determined at this time since the City does not know what commercial development will go into that 20-acre space. Mr. Becklenberg added that the developer will not be able to sell any excess EQR's until the development is complete.

Mayor Pro-Temp Clark made the motion, seconded by Council Member Johnson to approve the Development Agreement for the Peakview Development and authorize the Mayor to sign the Development Agreement. The motion passed with all voting in favor thereof.

D. Consideration of Water Efficiency Plan

Mr. Becklenberg reviewed the background and advised that the governing body requires that the City Council approve a draft of the plan prior to the public engagement process. A final draft will be brought back to the Council in December for finally approval of the plan. Mr. Becklenberg turned the meeting

over to Michelle Hatcher, Clearwater Solutions.

Michelle Hatcher reviewed the draft plan as depicted in the materials contained in the Council packet and reviewed the timeline leading to formal approval of the plan.

Council Member Johnson is excited about the plan and believes it will be beneficial to the City.

Mayor Pro-Temp Clark made the motion, seconded by Council Member Johnson to approve the Draft Municipal Water Efficiency Plan Update. The motion passed with all voting in favor thereof.

- E. Consideration of Resolution No. 32-2020 to Approve and Authorize Execution of an Agreement to Sell NISP Units to the Fort Collins-Loveland Water District.

Mr. Becklenberg reviewed the background. NISP is a water storage and distribution project that will supply fifteen (15) North Range municipalities with a total of forty thousand (40,000) acre feet of water supply. The City has been a NISP member since 2002. The project will include two large water storage reservoirs and a smaller reservoir to hold water and sediment, two large pumping plants and a network of pipeline to deliver water and improvements to an existing canal. The City has a 4% share of the cost which is estimated to be \$1.2 billion for the total project. The Council previously gave direction to look for opportunities to divest 25% of the City's share. Mr. Becklenberg turned the meeting over to Assistant City Manager, Randy Ready, and thanked him and Rick Pickard for their involvement in this project.

Mr. Ready advised that the Assistant City Attorney has headed up the negotiations. At this point there are more sellers than buyers. It is staff's recommendation that if Council wants to divest in the near term to sell at cost of what the City has invested so far which is \$1,764.38 per acre foot for the 400-acre feet. This action requires a Resolution and Agreement.

Council Member Neal feels that this deal may shortchange the future of Evans by giving up these shares of water and, therefore, he will be voting against this.

Council Member Castle made the motion, seconded by Council Member Johnson to approve Resolution No. 32-2020 to Approve and Authorize Execution of an Agreement to Sell NISP Units to the Fort Collins-Loveland Water District. The motion passed 6 to 1, Council Member Neal voted against.

- F. Consideration of Memorandum of Understanding Between the City of Evans and the Colorado Department of Public Safety, Division of Fire Prevention and Control to Allow the City Building Official (SAFEBuilt) to Inspect School Buildings.

Mr. Becklenberg explained that School District No. 6 has several upcoming large projects in the next several years and schools follow different State laws

and rules as compared to private and other public sector entities. State law does allow for the State to delegate inspection authority and plan review to a pre-qualified building department or contractor. The City's contractor for plan reviews and inspections, SAFEBuilt, is on that list. The school district requested that the City enter into the Memorandum of Understanding to allow SAFEBuilt to conduct their plan review and inspections. It would give the City more involvement with those projects as well as collect revenue from those permits. Anne Best Johnson was available to answer questions.

Council Member Castle asked about the length of the MOU. Anne Best Johnson responded the MOU would be for three years with an option to renew.

Council Member Neal asked about other municipalities that use SAFEBuilt to conduct their school inspections. Anne Best Johnson advised that the Town of Windsor uses SAFEBuilt for school inspections and SAFEBuilt is pre-qualified to conduct the plan reviews as well as the inspections.

Council Member Castle made the motion, seconded by Mayor Pro-Tem Clark to approve the Memorandum of Understanding between the City of Evans and the State Division of Fire Prevention and Control within the Department of Public Safety and to authorize the Mayor to sign the MOU. The motion passed with all voting in favor thereof.

- G. Public Hearing: Consideration of Ordinance Number 731-20 to Update the Official Zoning Map for the City of Evans Pursuant to Zoning Changes that Occurred in 2020 (1st Reading).

Mayor Rudy opened the public hearing at 8:51 p.m.

Mr. Becklenberg advised that the Official Zoning Map for the City of Evans needs to be updated pursuant to zoning changes that City Council has approved in recent months. These changes include: Arrowhead Zoning to Agricultural and MountainTRAX Zoning to I-3.

Mayor Rudy asked if there was anyone in the audience who wished to speak in favor of this issue; no one came forward.

Mayor Rudy asked if there was anyone in the audience who wished to speak in opposition of this issue; no one came forward.
There were no questions from the Council.

Mayor Rudy closed the public hearing at 8:53 p.m.

Mayor Pro-Tem Clark made a motion, seconded by Council Member Johnson to approve Ordinance No. 731-20 as proposed. The motion passed with all voting in favor thereof.

- H. Consideration of Award of Bid for the 2020 Pavement Marking Project.

Mr. Becklenberg reviewed the project as depicted in the Council packet. The City has done more pavement work this year than in past years. Therefore, there is more striping work as well. There are several intersections that will also receive striping services under this contract. Mr. Becklenberg asked to Mark Oberschmidt, City Engineer, to speak about the process.

Mark Oberschmidt advised there were two bidders on this contract, one being American Striping Co. Odds are that the work will be complete under the bid amount. Details of the specific work were reviewed.

Council Member Speer asked for a brief description of each of the materials to be used. She also likes when the striping glows at night and asked if that will be used. Mark Oberschmidt stated that the latex enamel will be used as a short-term material on roads that will have future work done. The epoxy is more of a long term. The thermoplastic are the symbols.

Council Member Neal confirmed that the epoxy has the reflective beads.

Council Member Castle asked about the material to be used on 37th Street. Mark Oberschmidt stated that when 37th Street is complete, epoxy will be used, which is included in that street project. Mr. Becklenberg added that latex will be used on areas where future road projects are scheduled for a short-term solution.

Council Member Mortenson made a motion, seconded by Council Member Speer to award the 2020 Pavement Marking Project Contract to American Striping Company and to authorize the Mayor's signature on an agreement in the amount of \$120,473.95 with a not to exceed amount of \$132,500. The motion passed with all voting in favor thereof.

- I. An Ordinance Amending Title 3, Chapter 3.04, Subsection 3.04.500.O of the Evans Municipal Code to Allow the City Manager to Designate a Hearing Officer to Determine License Revocation (1st Reading).

Mr. Becklenberg reviewed the proposed amendment as depicted in the Council packet. The City is currently engaged in an enforcement action with a hotel located within the City. The Council held a Special Meeting to appoint a hearing officer. The proposed Ordinance would amend the Code to allow for the same designation of authority to appoint a hearing officer for a business license revocation hearing and to clarify the rights of the business owner during a revocation hearing.

Council Member Johnson made a motion, seconded by Council Member Neal to adopt Ordinance No. 734-20 as proposed to amend Section 3.04.500.O of the Evans Municipal Code. The motion passed with all voting in favor thereof.

9. REPORTS

A. City Manager

Mr. Becklenberg reminded City Council that tomorrow, Tuesday, October 6, 2020 is National Night Out.

B. City Attorney

City Attorney, Scott Krob, advised City Council that CML Attorney's Conference has been changed to a virtual conference over a series of four Friday afternoons and he will report back in about a month.

10. AUDIENCE PARTICIPATION

There was no audience participation

Mayor Rudy recessed the meeting at 9:03 p.m.

Mayor Rudy reconvened the meeting at 9:14 p.m.

11. EXECUTIVE SESSION

- A. To receive legal advice from the City Attorney regarding law enforcement and licensing of hotels under C.R.S. Section 24-6-402(4)(b).
- B. To receive legal advice regarding specific legal questions pertaining to the resolution of litigation under C.R.S. Sections 24-6-402(4)(b) and (4)(e)(1).

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to adjourn into executive session at 9:14 pm to receive legal advice from the city attorney regarding law enforcement and licensing of hotels 24-6-402(4)(b) and to receive legal advice regarding specific legal questions pertaining to the resolution of litigation under C.R.S. Sections 24-6-402(4)(b) and (4)(e)(1). The motion passed with all voting in favor thereof.

The meeting reconvened at 9:44 p.m.

Mr. Krob noted for the record that the executive session that Council concluded was within the scope of the statute and that he was present for the duration of the discussion, so the discussion is subject to the attorney client privilege.

12. AJOURNMENT

The meeting was adjourned at 9:45 p.m.


CITY CLERK

CITY OF EVANS – MISSION STATEMENT

“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”

It is the policy of the City of Evans that all programs and activities shall be accessible to, and usable by, persons with disabilities. Persons needing assistance shall contact the Safety & Risk Management Manager at the City of Evans. Please provide three to five business day's advance notice so we can adequately meet your needs.